

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN ASSEMBLY MAY 29, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1968

Introduced by Assembly Member Wieckowski

February 23, 2012

An act to amend Section 830.5 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as amended, Wieckowski. Peace officers.

Existing law designates various persons as peace officers, including probation officers, parole officers, and parole agents, and provides that their authority extends to certain duties, including to the conditions of parole, probation, or postrelease community supervision of a person in the state on parole, probation, or postrelease community supervision, the escape of an inmate or ward from a state or local institution, the transportation of persons on parole, probation, or postrelease community supervision, and violations of law that are discovered while performing his or her duties. Existing law categorizes a probation officer as a peace officer who may carry firearms only if authorized by his or her employing agency, and under the terms and conditions specified by his or her employing agency.

This bill would authorize any probation officer or deputy probation officer to carry firearms as determined by the chief probation officer

on a case-by-case or unit-by-unit basis and under terms and conditions specified by the chief probation officer. The bill would require ~~each~~ *certain* chief probation ~~officer~~ *officers* to develop a policy ~~for arming~~ *as to whether* probation officers and deputy probation officers who ~~comprise~~ *supervise* high-risk case loads *should be armed. That policy would be required to be adopted* no later than June 30, 2013, and would ~~require the policy be required~~ *be required* to be implemented no later than December 31, 2013, *if the chief probation officer has not armed or has not adopted a policy regarding arming probation officers or deputy probation officers prior to January 1, 2013. The bill would define a high-risk caseload as a caseload that includes individuals who have been released from state prison subject to postrelease community supervision and have a prior conviction for a serious felony or violent felony.*

By imposing new duties on counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 830.5 of the Penal Code, as amended by
2 Section 25 of Chapter 43 of the Statutes of 2012, is amended to
3 read:
4 830.5. The following persons are peace officers whose authority
5 extends to any place in the state while engaged in the performance
6 of the duties of their respective employment and for the purpose
7 of carrying out the primary function of their employment or as
8 required under Sections 8597, 8598, and 8617 of the Government
9 Code, as amended by Section 44 of Chapter 1124 of the Statutes
10 of 2002. Except as specified in this section, these peace officers
11 may carry firearms only if authorized and under those terms and
12 conditions specified by their employing agency:

1 (a) A parole officer of the Department of Corrections and
2 Rehabilitation, or the Department of Corrections and
3 Rehabilitation, Division of Juvenile Parole Operations, probation
4 officer, deputy probation officer, or a board coordinating parole
5 agent employed by the Juvenile Parole Board. Except as otherwise
6 provided in this subdivision, the authority of these parole or
7 probation officers shall extend only as follows:

8 (1) To conditions of parole, probation, mandatory supervision,
9 or postrelease community supervision by any person in this state
10 on parole, probation, mandatory supervision, or postrelease
11 community supervision.

12 (2) To the escape of any inmate or ward from a state or local
13 institution.

14 (3) To the transportation of persons on parole, probation,
15 mandatory supervision, or postrelease community supervision.

16 (4) To violations of any penal provisions of law that are
17 discovered while performing the usual or authorized duties of his
18 or her employment.

19 (5) (A) To the rendering of mutual aid to any other law
20 enforcement agency.

21 (B) For the purposes of this subdivision, "parole agent" shall
22 have the same meaning as parole officer of the Department of
23 Corrections and Rehabilitation or of the Department of Corrections
24 and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*.

25 (C) Any parole officer of the Department of Corrections and
26 Rehabilitation, or the Department of Corrections and
27 Rehabilitation, Division of Juvenile Parole Operations, is
28 authorized to carry firearms, but only as determined by the director
29 on a case-by-case or unit-by-unit basis and only under those terms
30 and conditions specified by the director or chairperson. The
31 Department of Corrections and Rehabilitation, Division of Juvenile
32 Justice, shall develop a policy for arming peace officers of the
33 Department of Corrections and Rehabilitation, Division of Juvenile
34 Justice, who comprise "high-risk transportation details" or
35 "high-risk escape details" no later than June 30, 1995. This policy
36 shall be implemented no later than December 31, 1995.

37 (D) The Department of Corrections and Rehabilitation, Division
38 of Juvenile ~~Justice~~ *Facilities*, shall train and arm those peace
39 officers who comprise tactical teams at each facility for use during
40 "high-risk escape details."

(b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of ~~Mental Health~~ *State Hospitals* or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*, designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*, a correctional officer or correctional counselor employed by the Department of Corrections and Rehabilitation, or an employee of the Department of Corrections and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 25400. The director or chairperson may deny, suspend, or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*, or the Juvenile Parole Board, to review the director's or the chairperson's decision.

(d) (1) A probation officer or deputy probation officer is authorized to carry firearms, but only as determined by the chief

1 probation officer on a case-by-case or unit-by-unit basis and only
2 under those terms and conditions specified by the chief probation
3 officer. ~~Each~~

4 (2) (A) *If a chief probation officer has not armed or has not*
5 *adopted a policy regarding arming probation officers and deputy*
6 *probation officers prior to January 1, 2013, the chief probation*
7 *officer for each county shall develop a policy for arming no later*
8 *than June 30, 2013, as to whether probation officers and deputy*
9 *probation officers who comprise supervise high-risk caseloads no*
10 *later than June 30, 2013 should be armed.* This policy shall be
11 implemented no later than December 31, 2013.

12 (B) *For purposes of this section, “high-risk caseload” means*
13 *a caseload that includes individuals who have been released from*
14 *state prison subject to postrelease community supervision and*
15 *have a prior conviction for a serious felony described in*
16 *subdivision (c) of Section 1192.7 or a violent felony described in*
17 *subdivision (c) of Section 667.5.*

18 (e) Persons permitted to carry firearms pursuant to this section,
19 either on or off duty, shall meet the training requirements of Section
20 832 and shall qualify with the firearm at least quarterly. It is the
21 responsibility of the individual officer or designee to maintain his
22 or her eligibility to carry concealable firearms off duty. Failure to
23 maintain quarterly qualifications by an officer or designee with
24 any concealable firearms carried off duty shall constitute good
25 cause to suspend or revoke that person’s right to carry firearms
26 off duty.

27 (f) The Department of Corrections and Rehabilitation shall allow
28 reasonable access to its ranges for officers and designees of either
29 department to qualify to carry concealable firearms off duty. The
30 time spent on the range for purposes of meeting the qualification
31 requirements shall be the person’s own time during the person’s
32 off-duty hours.

33 (g) The secretary shall promulgate regulations consistent with
34 this section.

35 (h) “High-risk transportation details” and “high-risk escape
36 details” as used in this section shall be determined by the secretary,
37 or his or her designee. The secretary, or his or her designee, shall
38 consider at least the following in determining “high-risk
39 transportation details” and “high-risk escape details”: protection

1 of the public, protection of officers, flight risk, and violence
2 potential of the wards.

3 (i) “Transportation detail” as used in this section shall include
4 transportation of wards outside the facility, including, but not
5 limited to, court appearances, medical trips, and interfacility
6 transfers.

7 (j) This section is operative January 1, 2012.

8 SEC. 2. If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.